Senate File 510 - Introduced

SENATE FILE 510
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1110)

(COMPANION TO HF 327 BY COMMITTEE ON COMMERCE)

A BILL FOR

- 1 An Act relating to franchisor-franchisee relationships for
- 2 the purposes of certain employment laws and including
- 3 applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. <u>NEW SECTION</u>. **85.55 Franchisor-franchisee** 2 relationship.
- 3 l. For purposes of this section, franchisee and franchisor 4 mean the same as defined in section 523H.1.
- For purposes of this chapter and chapters 86 and 87,
- 6 a franchisor shall not be considered to be an employer of a
- 7 franchisee or of an employee of a franchisee unless any of the
- 8 following conditions apply:
- 9 a. The franchisor has agreed in writing to be considered to
- 10 be the employer of the franchisee or of the employees of the
- ll franchisee.
- 12 b. The franchisor has been found by the workers'
- 13 compensation commissioner to have exercised a type or degree of
- 14 control over the franchisee or the franchisee's employees that
- 15 is not customarily exercised by a franchisor for the purpose of
- 16 protecting the franchisor's trademarks and brand.
- 17 Sec. 2. NEW SECTION. 91A.15 Franchisor-franchisee
- 18 relationship.
- 19 1. For purposes of this section, franchisee and franchisor
- 20 mean the same as defined in section 523H.1.
- 21 2. For purposes of this chapter, a franchisor shall not be
- 22 considered to be an employer of a franchisee or of an employee
- 23 of a franchisee unless any of the following conditions apply:
- 24 a. The franchisor has agreed in writing to be considered to
- 25 be the employer of the franchisee or of the employees of the
- 26 franchisee.
- 27 b. The franchisor has been found by the commissioner to have
- 28 exercised a type or degree of control over the franchisee or
- 29 the franchisee's employees that is not customarily exercised
- 30 by a franchisor for the purpose of protecting the franchisor's
- 31 trademarks and brand.
- Sec. 3. Section 91D.1, Code 2019, is amended by adding the
- 33 following new subsection:
- NEW SUBSECTION. 2A. a. For purposes of this subsection,
- 35 franchisee and franchisor mean the same as defined in section

- 1 523H.1.
- 2 b. For purposes of this chapter, a franchisor shall not be
- 3 considered to be an employer of a franchisee or of an employee
- 4 of a franchisee unless any of the following conditions apply:
- 5 (1) The franchisor has agreed in writing to be considered
- 6 to be the employer of the franchisee or of the employees of the
- 7 franchisee.
- 8 (2) The franchisor has been found by the labor commissioner
- 9 to have exercised a type or degree of control over the
- 10 franchisee or the franchisee's employees that is not
- 11 customarily exercised by a franchisor for the purpose of
- 12 protecting the franchisor's trademarks and brand.
- 13 Sec. 4. NEW SECTION. 96.36 Franchisor-franchisee
- 14 relationship.
- 15 l. For purposes of this section, franchisee and franchisor
- 16 mean the same as defined in section 523H.1.
- 2. For purposes of this chapter, a franchisor shall not be
- 18 considered to be an employer of a franchisee or of an employee
- 19 of a franchisee unless any of the following conditions apply:
- 20 a. The franchisor has agreed in writing to be considered to
- 21 be the employer of the franchisee or of the employees of the
- 22 franchisee.
- 23 b. The franchisor has been found by the department to have
- 24 exercised a type or degree of control over the franchisee or
- 25 the franchisee's employees that is not customarily exercised
- 26 by a franchisor for the purpose of protecting the franchisor's
- 27 trademarks and brand.
- 28 Sec. 5. NEW SECTION. 216.22 Franchisor-franchisee
- 29 relationship.
- 30 l. For purposes of this section, franchisee and franchisor
- 31 mean the same as defined in section 523H.1.
- 32 2. For purposes of this chapter, a franchisor shall not be
- 33 considered to be an employer of a franchisee or of an employee
- 34 of a franchisee unless any of the following conditions apply:
- 35 a. The franchisor has agreed in writing to be considered to

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- 1 be the employer of the franchisee or of the employees of the
 2 franchisee.
- 3 b. The franchisor has been found by the commission to have
- 4 exercised a type or degree of control over the franchisee or
- 5 the franchisee's employees that is not customarily exercised
- 6 by a franchisor for the purpose of protecting the franchisor's
- 7 trademarks and brand.
- 8 Sec. 6. APPLICABILITY. This Act applies to work performed
- 9 on or after the effective date of this Act.
- 10 EXPLANATION
- 11 The inclusion of this explanation does not constitute agreement with
- 12 the explanation's substance by the members of the general assembly.
- 13 This bill provides that, for the purposes of certain
- 14 specified employment laws, a franchisor shall not be considered
- 15 to be an employer of a franchisee or of an employee of a
- 16 franchisee unless at least one of two specified conditions are
- 17 met. The first condition is that the franchisor has agreed in
- 18 writing to be considered to be the employer of the franchisee
- 19 or of the employees of the franchisee. The second condition
- 20 is that the franchisor has been found by the governing state
- 21 agency to have exercised a type or degree of control over
- 22 the franchisee or the franchisee's employees that is not
- 23 customarily exercised by a franchisor for the purpose of
- 24 protecting the franchisor's trademarks and brand.
- 25 The affected employment laws are Code chapter 216 relating
- 26 to civil rights, Code chapters 85, 86, and 87 relating to
- 27 workers' compensation, Code chapter 91A relating to wage
- 28 payment collection, Code chapter 91D relating to the minimum
- 29 wage, and Code chapter 96 relating to unemployment insurance.
- 30 Franchisee is defined under Iowa law as a person to whom a
- 31 franchise is granted, including a subfranchisor with regard to
- 32 its relationship with a franchisor and a subfranchisee with
- 33 regard to its relationship with a subfranchisor. Franchisor
- 34 is defined under Iowa law as a person who grants a franchise or
- 35 master franchise, or an affiliate of such a person, including

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- 1 a subfranchisor with regard to its relationship with a
- 2 franchisee, except as otherwise provided by state law.
- The bill applies to work performed on or after the effective
- 4 date of the bill.